



Town of Dumfries
Council Meeting

Meeting Date: September 3, 2013

Agenda Item# XIV - E

AGENDA ITEM FORM

TYPE OF AGENDA ITEM:

- ☐ CONSENT AGENDA
☐ PRESENTATION
☐ ACTION ITEM
☐ TOWN MANAGER & STAFF COMMENTS
☐ PUBLIC HEARING
☐ Duly Advertised

PURPOSE OF ITEM:

- ☐ INFORMATION ONLY
☐ DISCUSSION ONLY
☒ DISCUSSION AND/OR DECISION
☐ Introduction ☐ Resolution
☐ Ordinance ☐ Grant/MOU
☒ By Motion ☐ Bylaws
☐ Certificate

PRESENTER: Christine Sanders **PRESENTER TITLE:** Town Attorney

AGENDA ITEM:

Referendum for election date change from May elections to November elections of local officials: Mayor and Town Council

BACKGROUND / SUMMARY:

Council asked for this research at its work session meeting of August 20, 2013

ATTACHMENTS:

Memo attached

REQUESTED ACTION: ☐ NO ACTION REQUESTED

Decide what, if any, action to take on this matter

FOR MORE INFORMATION, CONTACT:

Name: Christine Sanders

Phone#: 703 221-3400 ext. 140

E-mail: csanders@dumfriesva.gov

FOR USE DURING MEETING

VOTE:

☐ PASSED

☐ NOT PASSED

Y N

☐ ☐ Brewer
☐ ☐ Reynolds
☐ ☐ Wood

Y N

☐ ☐ Foreman
☐ ☐ Toney

Y N

☐ ☐ Forrester
☐ ☐ Washington



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MEMORANDUM

TO: Mayor Foreman, Vice Mayor Toney, Council
Dan Taber, Town Manager
FROM: Christine R. Sanders, Town Attorney
DATE: August 27, 2013
RE: Research to allow for a change from May to November for Town
Council elections

Analysis:

Currently, the Dumfries Town Charter section 3.01 states:

- (a) The Town of Dumfries shall be governed by a town council elected at large and composed of a mayor and six other members, all of whom shall be qualified voters of the town. Candidates for town offices shall not be identified on the ballot by political affiliation. In order to have their names placed on the ballot, all candidates shall be nominated only by petition as provided by general law pursuant to Code of Virginia, § 24.2-506.
- (b) On the first Tuesday in May 1994, and every four years thereafter there shall be elected by the qualified voters of the town a mayor and three councilmembers from the town at large. On the first Tuesday in May 1996, and every four years thereafter there shall be elected three councilmembers from the town at large.
- (c) The persons elected shall take office on July 1 succeeding their election and remain in office until their successors have qualified and taken office.

Accordingly, the Town would need to amend its charter in order to move elections from May to November. Virginia Code Section 24.2-222.1 allows for the change in election dates. However, no ordinance adopting this change in election dates may be passed between January 1 and May of the date of an election year. So change in election dates may not occur until after the May 2014 elections.

Council indicated a desire to hold a referendum in order to put the question of changing the election dates from May to November to a vote by the registered voters.

However, there is no enabling legislation that allows for a referendum absent specific authority in the Virginia Code. Authority for a referendum on changing elections from May to November may occur pursuant to Virginia Code Section 24.2-222.1 (B) which states *inter alia*:

the registered voters of a city or town may file a petition with the circuit court of the county within which the town is located asking that a referendum be held on the question of whether the city or town should elect the mayor. . . and council members at the November general election date of any cycle as designated in the petition. The petition shall be signed by registered voters equal in number to at least ten percent of the number registered in the. . . town on the January preceding the filing.

The Court, shall order the election officials on a day fixed in the order to conduct a referendum on the question, provided that no such referendum shall be scheduled between January 1 and the May general election date of the year in which the . . . town elections regularly are scheduled to be held therein.

Alternatively, a special election to change the Charter may be held pursuant to Virginia Code § 15.2-201, Charter elections; subsequent procedure; procedure when bill not introduced or fails to pass in General Assembly, which states, *inter alia*:

A locality may provide for holding an election to be conducted as provided in § **24.2-681** et seq. of Title 24.2 to determine if the voters of the locality desire that it request the General Assembly to grant to the locality a new charter or to amend its existing charter. At least ten days prior to the holding of such election, the text or an informative summary of the new charter or amendment desired shall be published in a newspaper of general circulation in the locality.

If a majority of the voters voting in such election vote in favor of such request, the locality shall transmit two certified copies of the results of such election together with the publisher's affidavit and the new charter or the amendments to the existing charter, to one or more members of the General Assembly representing such locality for introduction as a bill in the succeeding session of the General Assembly.

Or, in lieu of holding a special election (as set forth above) to request a change to the Town Charter, Virginia Code § 15.2-202. Public hearing in lieu of election; procedure when bill not introduced or fails to pass in General Assembly, states, *inter alia*:

In lieu of the election provided for in § **15.2-201**, a locality requesting the General Assembly to grant to it a new charter or to amend its existing charter may hold a public hearing with respect thereto, at which citizens shall have an opportunity to be heard to determine if the citizens of the locality desire that the locality request the General Assembly to grant to it a new charter, or to amend its existing charter. At least ten days' notice of the time and place of such hearing and the text or an informative summary of the new charter or amendment desired shall be published in a newspaper of general circulation in the locality. Such public hearing may be adjourned from time to time, and upon the completion thereof, the locality may request,

in the manner provided in § 15.2-201, the General Assembly to grant the new charter or amend the existing charter and the provisions of § 15.2-201 shall be applicable thereto.

Conclusion:

Council may spearhead the circulation of a petition pursuant to Virginia Code Section 24.2-222.1, hold a special election, pursuant to Virginia Code Section 15.1-201, or hold a public hearing pursuant to Virginia Code Section 15.1-202. Regardless of the process, the town will then need to file for a change to its Charter and have it approved at the next session of the Virginia General Assembly.

I have spoken with Dianna Dutton of the Prince William County Board of Elections and there is no additional fee charged for having a referendum placed on the ballot of a normal election date. If the Town holds a special election, there will be additional costs involved.